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UNIFORM RULES OF
THE MUNICIPAL COURTS OF GEORGIA

These rules are promulgated pursuant to the inherent powers of the Supreme Court of Georgia in order to provide for the speedy, efficient and inexpensive resolution of disputes and prosecutions. It is not the intention, nor shall it be the effect, of these rules to conflict with the Constitution or substantive law, either per se or in individual actions, and these rules shall be so construed and in case of conflict shall yield to substantive law. It is not the intent of these rules, nor shall these rules be construed, to require any municipal, recorders or any other court deemed a municipal court, to become or remain a court of record or to employ the services of any personnel, including solicitors or prosecuting attorneys, unless otherwise provided by general law, charter or ordinance.

1.1 Repeal of Local Rules.

All local rules of the municipal courts shall expire effective February 3, 2010. If any municipal court by action of a majority of its judges (or failing this, by action of its chief judge) proposes to prevent any local rule from expiring pursuant to Rule 1.1, then a proposal to prevent the local rule from expiring must be presented to the Court for approval 30 days prior to the expiration date as stated in Rule 1.1. Only those rules reapproved by the Supreme Court of Georgia on or after February 3, 2010, shall remain in effect after that date. Rules timely resubmitted shall remain in effect until action by the Supreme Court of Georgia.

1.2 Authority to Enact Rules Which Deviate From the Uniform Rules.

(a) The term "local rules" will no longer be used in the context of the Uniform Municipal Court Rules.

(b) Each municipal court by action of a majority of its judges (or failing this, by action of its chief judge), from time to time, may propose to make and amend rules which deviate from the Uniform Municipal Court Rules, provided such proposals are not inconsistent with general laws, these Uniform Municipal Court Rules, or any directive of the Supreme Court of Georgia. Any such proposals shall be filed with the clerk of the Supreme Court of Georgia; proposals so submitted shall take effect thirty (30) days after approval by the Supreme Court of Georgia. It is the intendment of these rules that rules which deviate from the Uniform Municipal Court Rules be restricted in scope.

(c) The municipal court, by action of a majority of its judges (or failing this, by action of its chief judge), may continue to promulgate rules which relate only to internal procedure and do not affect the rights of any party substantially or materially, either to unreasonably delay or deny such rights, and provided that those rules shall not conflict with these uniform rules. These rules, which will be designated "internal operating procedures," do not require the approval of the Supreme Court. "Internal operating procedures," as used in these Uniform Municipal Court Rules, are defined as rules which relate to case management, administration, and operation of the court or govern programs which relate to filing costs in civil actions, costs in criminal matters, case management, administration, and operation of the court.

(d) Notwithstanding these uniform rules, the municipal court, by action of a majority of its judges (or failing this, by action of its chief judge), may promulgate experimental rules applicable to pilot projects, upon approval of the Supreme Court, adequately advertised to the local bar, with copies to the State Bar of Georgia, not to exceed a period of one year, subject to extension for one additional year upon approval of the Supreme Court. At the end of the second year, any such pilot projects will be allowed to sunset unless approved by the Supreme Court to remain in effect for a longer period of time.

(e) Rules which are approved as deviations from the Uniform Municipal Court Rules and internal operating procedures of courts shall be published by the court in which the rules are effective. Copies must be made available through the clerk of the municipal court for the city where the rules are effective, and shall be posted on the adopting municipal court's website, if such exists. Any amendments to deviations from the Uniform Municipal Court Rules or to internal operating procedures must be published and made available through each municipal court clerk's office within fifteen (15) days of the effective date of the amendment or change. Summaries of amendments or deviations shall be published once per week for two consecutive weeks in the newspaper in which legal announcements are customarily made by the municipality in which the municipal court is located, and shall be provided to the State Bar of Georgia and all local bar associations serving the municipality.

(f) Internal operating procedures effective in any court must be filed with the Supreme Court even though Supreme Court approval is not needed for these rules.

1.3 Matters of Statewide Concern.

The following rules, to be known as "Uniform Municipal Court Rules," are to be given statewide application.

1.4 Deviation.

These rules are not subject to local deviation except as provided herein. A specific rule may be superseded in a specific action or case or by an order of the court entered in such case explaining the necessity for deviation and served upon the attorneys or pro se parties in the case.

1.5 Amendments.

The Council of Municipal Court Judges shall have a permanent committee to recommend to the Supreme Court such changes and additions to these rules as may from time to time appear necessary or desirable. The State Bar of Georgia and the Uniform Rules Committee Chairpersons of the Council of each class of court shall receive notice of the proposed changes and additions and be given the opportunity to comment.

1.6 Publication of Rules and Amendments.

These rules and any amendments to these rules shall be published in the advance sheets to the *Georgia Reports*. Unless otherwise provided, the effective date of any amendment to these rules is the date of publication in the advance sheets to the *Georgia Reports*.

RULE 2. DEFINITIONS

2.1 Attorney.

The word "attorney" as used in these rules refers to any person admitted to the State Bar of Georgia and any person who has been properly admitted to the court pro hac vice. Pro se litigants are governed by the same rules as attorneys.

2.2 Judge.

The word "judge" as used in these rules refers to any person serving or acting as a judge of a municipal court in the State of Georgia. The term "chief judge" shall be that judge designated as such by the municipality according to its charter and ordinances, or failing that, the sole judge designated or elected as municipal court judge by the municipality, and in the case of municipal courts with more than one municipal court judge, by majority vote of the municipal court judges, for such term as may be provided by charter, ordinance, or internal operating procedures adopted in accordance with these uniform rules.

2.3 Clerk.

Unless the context of these rules requires otherwise, the word "clerk" as used in these rules refers to the person designated according to the charter and ordinances of the municipality, as the primary person most directly responsible for the administration of a municipal court other than a judge of the municipal court. If provided by the charter or ordinances of the municipality, the chief judge may designate deputy clerks who shall have the same authority as the clerk.

2.4 Assigned Judge.

The term "assigned judge" as used in these rules refers to the judge to whom an action is assigned in accordance with these rules; or, if the context permits, in municipal courts having approved local rules permitting a general calendaring system, to the trial judge responsible for the matter at any particular time.

2.5 Gender Neutral Pronouns.

The pronoun "he" shall include "she" and vice versa, unless the context clearly indicates otherwise; the pronoun "her" shall include "him" and vice versa, unless the context clearly indicates otherwise.

RULE 3. HOURS OF COURT OPERATION

The hours of court operation shall be set by the chief judge of each court and shall be recorded with the clerk of the municipal court. Such information shall include the following:

(1) Normal hours and location of court.

(2) Emergency after-hours availability of judges and the names of such judges; provided, however, that personal telephone numbers and address information need not be included in the public records of the clerk.

(3) Holidays during which the court will be closed and a plan for the availability of judges on such days.

(4) Days on which the court holds hearings and the times and locations of such hearings.

RULE 4. ASSIGNMENT OF CASES

4.1 Case Assignment.

Unless provided by approved internal procedures or pursuant to assignment by the chief judge, cases shall not be assigned to a particular judge. Provided, however, that once any judge has first heard sworn testimony or made any ruling in a case other than the granting of an arrest or search warrant, the setting of bail and the initial finding of probable cause, or the granting of a continuance, that case shall thereafter be considered only by that judge, except upon the approval of that judge. In municipal courts served by more than one judge, the clerk of court shall schedule the presiding of those judges over the various court calendars according to a plan

approved by a majority of those judges. This rule shall not apply to probation revocation hearings.

4.2 Recusal.

4.2.1 Motions.

All motions to recuse or disqualify a judge presiding in a particular case or proceeding shall be timely filed in writing and all evidence thereon shall be presented by accompanying affidavit(s) which shall fully assert the facts upon which the motion is founded. Filing and presentation to the judge shall be not later than five (5) days after the affiant first learned of the alleged grounds for disqualification, and not later than ten (10) days prior to the hearing or trial which is the subject of recusal or disqualification, unless good cause be shown for failure to meet such time requirements. In no event shall the motion be allowed to delay the trial or proceeding.

4.2.2 Affidavit.

The affidavit shall clearly state the facts and reasons for the belief that bias or prejudice exists, being definite and specific as to time, place, persons and circumstances of extra-judicial conduct or statements, which demonstrate either bias in favor of any adverse party, or prejudice toward the moving party in particular, or a systematic pattern of prejudicial conduct toward persons similarly situated to the moving party, which would influence the judge and impede or prevent impartiality in that action. Allegations consisting of bare conclusions and opinions shall not be legally sufficient to support the motion or warrant further proceedings.

4.2.3 Duty of the trial judge.

When a judge is presented with a motion to recuse, or disqualify, accompanied by an affidavit, the judge shall temporarily cease to act upon the merits of the matter and shall immediately determine the timeliness of the motion and the legal sufficiency of the affidavit, and make a determination, assuming any of the facts alleged in the affidavit to be true, whether recusal would be warranted. If it is found that the motion is timely, the affidavit sufficient and that recusal would be authorized if some or all of the facts set forth in the affidavit are true, another judge shall be assigned to hear the motion to recuse. The allegations of the motion shall stand denied automatically. The trial judge shall not otherwise oppose the motion.

4.2.4 Procedure upon a motion for disqualification.

The motion shall be assigned for hearing to another judge, who shall be selected in the following manner:

(a) If within a single-judge municipality, the most senior in service District Representative judge serving on the Executive Committee of the Council of Municipal Court Judges shall select the judge;

(b) If within a two-judge municipality, the other judge, unless disqualified, shall hear the motion;

(c) If within a multi-judge municipality, composed of three (3) or more judges, selection shall be made by use of the municipality's existing random, impartial case assignment method. If the

municipality does not have random, impartial case assignment rules, then assignment shall be made as follows:
(1) The chief judge of the municipality shall select a judge within the municipality to hear the motion, unless the chief judge is the one against whom the motion is filed; or
(2) In the event the chief judge is the one against whom the motion is filed, the assignment shall be made by the judge of the municipality who is most senior in terms of service other than the chief judge and who is not also a judge against whom the motion is filed; or
(3) When the motion pertains to all active judges in the municipality, the most senior in service District Representative judge serving on the Executive Committee of the Council of Municipal Court Judges shall select a judge outside the municipality to hear the motion.
(d) If the most senior in service District Representative judge serving on the Executive Committee of the Council of Municipal Court Judges is the one against whom the motion is filed, the District Representative judge within the district next senior in time of service shall serve in this selection process instead.
If the motion is sustained, the selection of another judge to hear the case shall follow the same procedure as outlined above.
(e) If all judges within a municipality are disqualified, including all District Representative judges, the matter shall be referred by the disqualified most senior in service District Representative judge to the most senior in service District Representative judge of an adjacent district for the appointment of a judge who is not a member of the district to preside over the motion or case.

4.2.5 Selection of judge.

In the instance of any hearing on a motion to recuse or disqualify a judge, the challenged judge shall neither select nor participate in the selection of the judge to hear the motion; if recused or disqualified, the recused or disqualified judge shall not select nor participate in the selection of the judge assigned to hear further proceedings in the involved action.

4.2.6 Findings and ruling.

The judge assigned may consider the motion solely upon the affidavits, but may, in the exercise of discretion, convene an evidentiary hearing. After consideration of the evidence, the judge assigned shall rule on the merits of the motion and shall make written findings and conclusions. If the motion is sustained, the selection of another judge to hear the case shall follow the same procedure as established in Rule 4.2.4 above. Any determination of disqualification shall not be competent evidence in any other case or proceedings.

4.2.7 Voluntary recusal.

If a judge, either on the motion of one of the parties or the judge's own motion, voluntarily disqualifies, another judge, selected by the procedure set forth in Rule 4.2.4 above, shall be assigned to hear the matter involved. A voluntary recusal shall not be construed as either an admission or denial to any allegations which have been set out in the motion.

RULE 5. DOCKETS

5.1 Docket Categories.

Each municipal court shall keep a docket for criminal cases, arrests and search warrants, and a separate docket for all other actions.

5.2 Time of Docketing.

Actions shall be entered by the clerk, deputy clerk, or judge in the proper docket immediately or within a reasonable period after being received in the clerk's office.

RULE 6. WITHDRAWAL OF PAPERS FROM THE MUNICIPAL COURT

No original papers may be withdrawn from the municipal court. However, copies of any documents may be obtained by any party or the attorney for any party upon payment of copy costs to the clerk. All court records are public and are to be available for inspection in accordance with and as limited by the Georgia Open Records Act, as amended.

RULE 7. DUTIES OF ATTORNEYS AND ALL PARTIES

7.1 Notification of Representation.

No attorney shall appear in his or her representative capacity before a municipal court until he or she has entered an appearance by filing a signed entry of appearance form or by filing a signed pleading in a pending action. An entry of appearance shall state (1) the style and case number; (2) the identity of the party for whom the appearance is made; and (3) the name and current office address, telephone number and bar number of the attorney.

7.2 Withdrawal of Counsel.

(a) An attorney appearing of record in any action pending in any municipal court, who wishes to withdraw as counsel for any party therein, shall submit a written request to an appropriate judge of the court for an order of court permitting such withdrawal. Such request shall state that the attorney has given due written notice to the affected client respecting such intention to withdraw ten (10) days (or such lesser time as the court may permit in any specific instance) prior to

submitting the request to the court or that such withdrawal is with the client's consent. Such request will be granted unless in the judge's discretion to do so would delay the trial of the action or otherwise interrupt the orderly operation of the court or be manifestly unfair to the client. The attorney requesting an order permitting withdrawal shall give notice to the solicitor or prosecuting attorney, if any, and shall file with the clerk in each such action and serve upon the client, personally or at that client's last known address, a notice which shall contain at least the following information:

(1) That the attorney wishes to withdraw;

(2) That the court retains jurisdiction of the action;

(3) That the client has the burden of keeping the court informed respecting where notices, pleadings or other papers may be served;

(4) That the client has the obligation to prepare for trial or hire other counsel to prepare for trial when the trial date has been set;

(5) That if the client fails or refuses to meet these burdens, the client may suffer adverse consequences, including, in criminal cases, bond forfeiture and arrest;

(6) The dates of any scheduled proceedings, including trial, and that holding of such proceedings will not be affected by the withdrawal of counsel;

(7) That service of notices may be made upon the client at the client's last known address; and

(8) That unless the withdrawal is with the client's consent, the client has the right to object within ten (10) days of the date of the notice.

(b) The attorney seeking to withdraw shall prepare a written notification certificate stating that the above notification requirements have been met, the manner by which such notification was given to the client, and the client's last known address and telephone number. The notification certificate shall be filed with the court and a copy mailed to the client and all other parties. The client shall have ten (10) days prior to entry of an order permitting withdrawal or such lesser time as the court may permit within which to file objections to the withdrawal. After the entry of an order permitting withdrawal, the client shall be notified by the withdrawing attorney of the effective date of the withdrawal; thereafter all notices or other papers may be served on the party directly by mail at the last known address of the party until new counsel enters an appearance.

7.3 Duty to Utilize Assigned Judge; Notification of Previous Presentation to Another Judge.

Attorneys shall not present to any judge any matter or issue in any case which has been assigned to or a ruling made by another judge, except under the most compelling circumstances. In that event, any attorney doing so shall first advise the judge to whom the matter is presented that the action is assigned to or a ruling has been made by another judge. Counsel shall also inform the assigned or previous ruling judge as soon as possible that the matter was presented to another judge. Attorneys shall not present to a judge any matter which has been previously presented to another judge without first advising the former of the fact and result of such previous presentation.

7.4 Prohibition on Ex Parte Communications.

Except as authorized by law or by rule, judges shall not initiate, permit or consider ex parte communications by interested parties or their attorneys concerning a pending or impending proceeding. Where circumstances require ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or the merits of the case are authorized, provided:

1. The judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication; and
2. The judge takes reasonable steps to promptly notify all parties of the substance of the ex parte communication and allows an opportunity to respond.

7.5 Duty to Attend and Remain.

Attorneys and parties having matters on calendars, unless excused by the judge, are required to be in court at the call of the matter and to remain until otherwise directed by the court. The failure of any attorney or party in this respect shall subject that attorney or party to the contempt powers of the court.

RULE 8. RESOLUTION OF CONFLICTS—STATE AND FEDERAL COURTS

(a) An attorney shall not be deemed to have a conflict unless:

(1) The attorney is lead counsel in two or more of the actions affected; and

(2) The attorney certifies that the matters cannot be adequately handled, and the client's interest adequately protected, by other counsel for the party in the action or by other attorneys in lead counsel's firm; certifies compliance with this rule and has nevertheless been unable to resolve the conflicts; and certifies in the notice a proposed resolution by list of such cases in the order of priority specified by this rule.

(b) When an attorney is scheduled for a day certain by trial calendar, special setting or court order to appear in two or more courts (trial or appellate; municipal, state or federal), the attorney shall give prompt written notice as specified in paragraph (a) above of the conflict to opposing counsel, to the clerk of each court and to the judge before whom each action is set for hearing (or, to an appropriate judge if there has been no designation of a presiding judge). The written notice shall contain the attorney's proposed resolution of the appearance conflicts in accordance with the priorities established by this rule and shall set forth the order of cases to be tried with a listing of the date and data required by paragraphs (b) (1)-(4) as to each case arranged in the order in which the cases should prevail under this rule. In the absence of objection from opposing counsel or the courts affected, the proposed order of conflict resolution shall stand as offered. Should a judge wish to change the order of cases to be tried, such notice shall be given promptly after agreement is reached between the affected judges. Attorneys confronted by such conflicts are expected to give written notice such that it will be received at least seven (7) days prior to the date of conflict. Absent agreement, conflicts shall be promptly resolved by the judge or the clerk of each affected court in accordance with the following order of priorities:

(1) Criminal (felony) actions shall prevail over civil actions;

(2) Jury trials shall prevail over non-jury matters, including trials and administrative proceedings;

(3) Appellate arguments shall prevail over trials, hearings and conferences;

(4) Within each of the above categories only, the action which was first filed shall take precedence.

(c) Conflict resolution shall not require the continuance of the other matter or matters not having priority. In the event any matter listed in the letter notice is disposed of prior to the scheduled time set for any other matter listed or subsequent to the scheduled time set but prior to the end of the calendar, the attorney shall immediately notify all affected parties, including the court affected, of the disposal and shall, absent good cause shown to the court, proceed with the remaining case or cases in which the conflict was resolved by the disposal in the order of priorities as set forth heretofore.

RULE 9. LEAVES OF ABSENCE

9.1 Leaves for Thirty (30) Calendar Days or Less.

An attorney of record shall be entitled to a leave of absence for thirty (30) days or less from court appearance in pending matters which are neither on a published calendar for court appearance, nor noticed for a hearing during the requested time, by submitting to the clerk of the court at least thirty (30) calendar days prior to the effective date for the proposed leave, a written notice containing:

(a) A list of the actions to be protected, including the action numbers, and date and time of any previously calendared appearance;

(b) The reason for leave of absence; and

(c) The duration of the requested leave of absence.

A copy of the notice shall be sent, contemporaneously, to the judge before whom an action is pending and all opposing counsel. Unless opposing counsel files a written objection within ten (10) days with the clerk of the court, with a copy to the court and all counsel of record, or the court responds denying the leave of absence, such leave will stand granted without entry of an order. If objection is filed, the court, upon request of any counsel, will conduct a conference with all counsel to determine whether the court will, by order, grant the requested leave of absence.

The clerk of the court shall retain leave of absence notices in a chronological file for two (2) calendar years; thereafter, the notices may be discarded.

Leaves of absence for particular cases shall be docketed with the particular case affected by that leave of absence.

9.2 Leaves for More Than Thirty (30) Calendar Days. (Or those either on a published calendar, noticed for a hearing, or not meeting the time requirements of Rule 9.1 above.)

Application for a leave of absence for more than thirty (30) calendar days, or those either on a published calendar, noticed for a hearing, or not submitted within the time limits contained in Rule 9.1 above, must be in writing, filed with the clerk of the court, and served upon opposing counsel at least ten (10) days prior to submission to the appropriate judge of the court in which

the action is pending. This time period may be waived if opposing counsel consents in writing to the application. This procedure permits opposing counsel to object or to consent to the grant of the application, but the application is addressed to the discretion of the court. Such application for leave of absence shall contain:

(a) A list of the actions to be protected, including the action number;

(b) The reason for leave of absence; and

(c) The duration of the requested leave of absence.

9.3 Excusal from Court Appearances.

A Rule 9.1 or 9.2 leave when granted shall relieve any attorney from all trials, hearings, depositions and other legal appearances in that matter.

This rule shall not extend any deadline set by law or the court.

RULE 10. TERMS OF COURT

Where statutes or case law of general application in this state require action within a term of court, in the municipal court this shall signify within one hundred eighty (180) days; where action is required by the next term of court, this shall signify after one hundred eighty (180) days; and on or before three hundred sixty-five (365) days, unless by charter, ordinance or internal operating procedure term of court is otherwise defined.

RULE 11. ELECTRONIC AND PHOTOGRAPHIC NEWS COVERAGE OF MUNICIPAL COURT PROCEEDINGS

Unless otherwise provided by rule of the municipal court or otherwise ordered by the assigned judge after appropriate hearing (conducted after notice to all parties and counsel of record) and findings, representatives of the print and electronic public media may be present at and unobtrusively make written notes and sketches pertaining to any judicial proceedings in the municipal courts. However, due to the distractive nature of electronic or photographic equipment, representatives of the public media utilizing such equipment are subject to the following restrictions and conditions:

(a) Persons desiring to broadcast/record/photograph official court proceedings must file a timely written request with the judge involved prior to the hearing or trial, specifying the particular calendar/case or proceedings for which such coverage is intended; the type equipment to be used in the courtroom; the trial, hearing or proceeding to be covered; and the person responsible for installation and operation of such equipment.

(b) Approval of the judge to broadcast/record/photograph a proceeding, if granted, shall be granted without partiality or preference to any person, news agency, or type of electronic or photographic coverage, who agrees to abide by and conform to these rules, up to the capacity of the space designated therefor in the courtroom. Violation of these rules will be grounds for a reporter/technician to be removed or excluded from the courtroom and held in contempt.

(c) The judge may exercise discretion and require pooled coverage which would allow only one still photographer, one television camera and attendant, and one radio or tape recorder outlet and attendant. Photographers, electronic reporters and technicians shall be expected to arrange

among themselves pooled coverage if so directed by the judge and to present the judge with a schedule and description of the pooled coverage. If the covering persons cannot agree on such a schedule or arrangement, the schedule and arrangements for pooled coverage may be designated at the judge's discretion.
(d) The positioning and removal of cameras and electronic devices shall be done quietly and, if possible, before or after the court session or during recesses; in no event shall such disturb the proceedings of the court. In every such case, equipment should be in place and ready to operate before the time court is scheduled to be called to order.
(e) Overhead lights in the courtroom shall be switched on and off only by court personnel. No other lights, flashbulbs, flashes or sudden light changes may be used unless the judge approves beforehand.
(f) No adjustment of the central audio system shall be made except by persons authorized by the judge. Audio recordings of the court proceedings will be from one source, normally by connection to the court's central audio system. Upon prior approval of the court, other microphones may be added in an unobtrusive manner to the court's public address system.
(g) All television cameras, still cameras and tape recorders shall be assigned to a specific portion of the public area of the courtroom or specially designed access areas, and such equipment will not be permitted to be removed or relocated during the court proceedings.
(h) Still cameras must have quiet functioning shutters and advancers. Movie and television cameras and broadcasting and recording devices must be quiet running. If any equipment is determined by the judge to be of such noise as to be distractive to the court proceedings, then such equipment can be excluded from the courtroom by the judge.
(i) Reporters, photographers, and technicians must have and produce upon request of court officials credentials identifying them and the media company for which they work.
(j) Court proceedings shall not be interrupted by a reporter or technician with a technical or an equipment problem.
(k) Reporters, photographers, and technicians should do everything possible to avoid attracting attention to themselves. Reporters, photographers, and technicians will be accorded full right of access to court proceedings for obtaining public information within the requirements of due process of law, so long as it is done without detracting from the dignity and decorum of the court.
(l) Other than as permitted by these rules and guidelines, there will be no photographing, radio or television broadcasting, including videotaping pertaining to any judicial proceedings on the floor where the trial, hearing or proceeding is being held or any other floor whereon is located a courtroom, whether or not the court is actually in session.
(m) No interviews pertaining to a particular judicial proceeding will be conducted in the courtroom except with the permission of the judge.
(n) A request for installation and use of electronic recording, transmission, videotaping or motion picture or still photography of any judicial proceeding shall be evaluated pursuant to the standards set forth in OCGA § 15-1-10.1.
(o) A request for media access to a court proceeding shall be in substantially the following form:

IN THE MUNICIPAL COURT OF _____
STATE OF GEORGIA

CASE NAME _____ CASE NO. _____

REQUEST FOR ELECTRONIC AND PHOTOGRAPHIC
MEDIA ACCESS TO COURT PROCEEDINGS

Pursuant to Uniform Municipal Court Rule 11, the undersigned hereby requests permission to record, photograph or televise all or portions of the proceedings in the above-captioned case.

This request is for the following scheduled hearing (provide date, time, etc.):

_____

The following equipment will be installed in the courtroom:

_____

The person who will be responsible for the installation and operation of this equipment is:

_____

The undersigned requests courtroom access prior to the scheduled event for the purpose of setting up equipment, as follows:

_____

The undersigned hereby certifies that the equipment to be installed and the locations and operation of such equipment will be in conformity with the rules and guidelines issued by the court.

_____
Signature and date

_____
Print name, title, and organization/company name

_____
Organization/company address and contact telephone number

APPROVED: _____
Judge, Municipal Court of _____

RULE 12. COMPLETION OF QUARTERLY CASELOAD REPORTS

In order to compile accurate data on the operation of the municipal courts, each chief judge shall ensure the accurate completion and timely submission of the Quarterly Caseload Reports sent to them by the Administrative Office of the Courts.

RULE 13. NOTICE OF SELECTION OF MUNICIPAL COURT JUDGES AND CLERKS OF COURT

Whenever a judge or clerk of a municipal court shall take the oath required for office in OCGA § 15-10-3, the clerk of court shall forward to the Administrative Office of the Courts the name and title of the person taking the oath; the name of the person being succeeded, if applicable; the term of the office, if applicable; the date assuming duties; and the address and telephone number the official wishes to use for business correspondence.

RULE 14. AT&T LANGUAGE LINE SERVICE

The AT&T Language Line Service is authorized for use in the municipal courts whenever foreign language interpretation is required in preliminary or administrative matters, subject, however, to the Rules for Use of Interpreters for Non-English Speaking Persons, as amended.

RULE 15. TELEPHONE AND VIDEO CONFERENCING

15.1 Telephone Conferencing
15.2 Video Conferencing

15.1 Telephone Conferencing.

The trial court on its own motion or upon the request of any party may in its discretion conduct pre-trial or post-trial proceedings by telephone conference with attorneys for all affected parties, to the extent that such conferences do not impair or deny the rights of criminal defendants pursuant to the United States and Georgia Constitutions. The trial judge may specify:

(a) The time and the person who will initiate the conference;

(b) The party who is to incur the initial expense of the conference call, or the apportionment of such costs among the parties, while retaining the discretion to make an adjustment of such costs upon final resolution of the case by taxing same as part of the costs; and

(c) Any other matter or requirement necessary to accomplish or facilitate the telephone conference.

15.2 Video Conferencing.

(a) The following matters may be conducted by video conference:

1. Determination of indigence and appointment of counsel;
2. Hearings on appearance and appeal bonds;
3. Initial appearance hearings and waiver of extradition hearings; Rule 15.2 (e) (4) below notwithstanding, public access to these hearings may provided by a video-conferencing system meeting the requirements of Rule 15.2 (e) (2) and (3);
4. Probable cause hearings;
5. Applications for and issuance of arrest warrants;
6. Applications for and issuance of search warrants;
7. Arraignment or waiver of arraignment;
8. Pretrial diversion and post-sentencing compliance hearings;
9. Entry of pleas in criminal cases;
10. Impositions of sentences upon pleas of guilty or nolo contendere;
11. Probation revocation hearings in which the probationer admits the violation, and in all misdemeanor cases;
12. Post-sentencing proceedings in criminal cases;
13. Acceptance of special pleas of insanity (incompetency to stand trial);
14. Situations involving inmates with highly sensitive medical problems or who pose a high security risk;
15. Testimony of youthful witnesses;
16. Appearances of interpreters.

Notwithstanding any other provisions of this rule, a judge may order a defendant's personal appearance in court for any hearing.

(b) Confidential Attorney-Client Communication. Provision shall be made to preserve the confidentiality of attorney-client communications and privilege in accordance with Georgia law. In all criminal proceedings, the defendant and defense counsel shall be provided with a private means of communications when in different locations.

(c) Witnesses. In any pending matter, a witness may testify via video conference. Any party desiring to call a witness by video conference shall file a notice of intention to present testimony by video conference at least thirty (30) days prior to the date scheduled for such testimony. Any other party may file an objection to the testimony of a witness by video conference within ten (10) days of the filing of the notice of intention. In civil matters, the discretion to allow testimony via video conference shall rest with the trial judge. In any criminal matter, a timely objection shall be sustained; however, such objection shall act as a motion for continuance and a waiver of any speedy trial demand.

(d) Recording of Hearings. A record of any proceedings conducted by video conference shall be made in the same manner as all such similar proceedings not conducted by video conference. However, upon the consent of all parties, that portion of the proceedings conducted by video conference may be recorded by an audio-visual recording system and such recording shall be part of the record of the case and transmitted to courts of appeal as if part of a transcript.

(e) Technical Standards. Any video-conferencing system utilized under this rule must conform to the following minimum requirements:

1. All participants must be able to see, hear, and communicate with each other simultaneously;
2. All participants must be able to see, hear, and otherwise observe any physical evidence or exhibits presented during the proceeding, either by video, facsimile, or other method;

3. Video quality must be adequate to allow participants to observe each other's demeanor and nonverbal communications; and
4. The location from which the trial judge is presiding shall be accessible to the public to the same extent as such proceeding would if not conducted by video conference. The court shall accommodate any request by interested parties to observe the entire proceeding.

RULE 16. ADMINISTRATION OF OATHS

A clerk of the municipal court may administer the oath and sign the jurat for affidavits, including those in support of arrest warrants and search warrants. This rule shall not be interpreted as otherwise affecting the responsibilities of a judge in hearing applications for arrest and search warrants.

RULE 17. HEARINGS ON ISSUANCE OF SEARCH WARRANTS

Whenever the hearing on the issuance of a search or arrest warrant is not recorded, the judge shall make a written notation or memorandum of any oral testimony which is not included in the affidavit, upon which the judge relies in issuing such warrant.

RULE 18. BAIL IN CRIMINAL CASES

18.1 Misdemeanor Cases.

Bail in misdemeanor cases shall be set as provided in OCGA §§ 17-6-1 and 17-6-2, and as provided by applicable municipal charter or ordinance.

18.2 Felony Cases.

Bail in felony cases shall not be set by the municipal court in those cases which by law the bail may be set only by a superior court judge, unless a specific order has been executed for setting felony bonds by the superior court in the county of the municipality. All defendants in custody on the authority of the municipal court must be presented to the municipal court for initial appearance within the time requirements of OCGA §§ 17-4-26 and 17-4-62 for further consideration of bail.

18.3 Categories of Bail.

The court may set bail which may be secured by:

(1) Cash—by a deposit with the municipal court clerk, municipal treasurer's office, municipal law enforcement or by internal operating procedure of an amount equal to the required cash bail;

or

(2) Property—by real estate located within the State of Georgia with unencumbered equity, not exempted, owned by the accused or surety, valued at double the amount of bail set in the bond;

or

(3) Recognizance—in the discretion of the court;

(4) Professional—by a professional bail bondsman authorized by the sheriff and in compliance with the rules and regulations for execution of a surety bail bond.

Bail may be conditioned upon such other specified and reasonable conditions as the court may consider just and proper. The court may restrict the type of security permitted for the bond although the local governing body shall determine what sureties are acceptable when a surety bond is permitted.

18.4 Amendment of Bail.

The municipal court has the authority to amend any bail previously authorized by the municipal court under the provisions of OCGA § 17-6-18.

18.5 Bail on Bind Over or Jury Demand.

Whenever a municipal court has set bail on cases that are bound over to another court for any reason, the bond shall be transferred to that agency or court.

RULE 19. DISMISSAL AND RETURN OF WARRANTS

19.1 Dismissal of Warrant.

Any dismissal of a warrant of the municipal court prior to a hearing, trial or transfer to other courts shall be made exclusively by the municipal court.

19.2 Assessment of Costs.

When, in a criminal action, costs are assessed by the court upon the dismissal of a warrant, the amount of costs assessed shall be as set according to the municipal charter, ordinances, or local rule.

RULE 20. INITIAL APPEARANCE/COMMITMENT HEARINGS

20.1 Initial Appearance Hearing.

As soon as is reasonably practicable following any arrest but no later than forty-eight (48) hours if the arrest was without a warrant, or seventy-two (72) hours following an arrest with a warrant, unless the accused has made bond in the meantime, the arresting officer or other law enforcement officer having custody of the accused shall present the accused in person before a municipal judge or other judicial officer for first appearance.

At the first appearance, the municipal judge or judicial officer shall:

(a) Inform the accused of the charges;

(b) Inform the accused that he has a right to remain silent, that any statement made may be used against him, and that he has the right to the presence and advice of an attorney, either retained or appointed;

(c) Determine whether or not the accused desires and is in need of an appointed attorney and, if appropriate, advise the accused of the necessity for filing a written application;

(d) Inform the accused of his or her right to a later pre-indictment commitment hearing, unless the first appearance covers the commitment hearing issues, and inform the accused that giving a bond shall be a waiver of the right to a commitment hearing;

(e) In the case of warrantless arrest, make a fair and reliable determination of the probable cause for the arrest unless a warrant has been issued before the first appearance;

(f) Inform the accused of the right to grand jury indictment in felony cases and the right to trial by jury, and when the next grand jury will convene;

(g) Inform the accused that if he or she desires to waive these rights and plead guilty, then the accused shall so notify the judge or the law enforcement officer having custody, who shall in turn notify the judge.

(h) Set the amount of bail if the offense is not one bailable only by a superior court judge, or so inform the accused if it is.

20.2 Commitment Hearing.

(a) A municipal court judge, in his or her discretion, may hold a commitment hearing even though the defendant has posted a bail bond.

(b) At the commitment hearing by the court of inquiry, the judicial officer shall perform the following duties:

(1) The judicial officer shall explain the probable cause purpose of the hearing.

(2) The judicial officer shall repeat to the accused the rights explained at the first appearance as listed in Rule 20.1 above.

(3) The judicial officer shall determine whether the accused intends to plead “guilty,” “nolo contendere” or “not guilty,” or waives the commitment hearing.

(4) If the accused intends to plead guilty or waives the hearing, the court shall immediately bind the entire case over to the court having jurisdiction of the most serious offense charged.

(5) If the accused pleads "not guilty," the court shall immediately proceed to conduct the commitment evidentiary hearing unless, for good cause shown, the hearing is continued to a later scheduled date.
(6) The judicial officer shall cause an accurate record to be made of the testimony and proceeding by any reliable method.
(7) The judicial officer shall bind the entire case over to the court having jurisdiction of the most serious offense for which probable cause has been shown by sufficient evidence and dismiss any charge for which probable cause has not been shown.
(8) On each case which is bound over, a memorandum of the commitment hearing shall be entered on the warrant by the judicial officer. The warrant, bail bond, and all other papers pertaining to the case shall be forwarded to the clerk of the appropriate court having jurisdiction over the offense for delivery to the district attorney. Each bail bond shall contain the full name, telephone number, residence, business and mailing address(es) of the accused and any surety.
(9) A copy of the record of any testimony and the proceedings of the first appearance and the commitment hearing shall be provided to the proper prosecuting officer and to the accused upon payment of the reasonable cost for preparation of the record.
(10) A judicial officer, conducting a commitment hearing, is without jurisdiction to make final disposition of the case or cases at the hearing by imposing any fine or punishment, except where the only charge arising out of the transaction at issue is the violation of a municipal ordinance.
(c) At the commitment hearing, the following procedures shall be utilized:
(1) The rules of evidence shall apply except that hearsay may be allowed;
(2) The prosecuting entity shall have the burden of proving probable cause; and may be represented by a law enforcement officer, a district attorney, a solicitor, or otherwise as is customary in that court;
(3) The accused may be represented by an attorney or may appear pro se; and
(4) The accused shall be permitted to introduce evidence.

20.3 Private Citizen Warrant Application Hearings.

(a) Upon the filing of an application for an arrest warrant by a person other than a peace officer or law enforcement officer, and if the court determines that a hearing is appropriate pursuant to OCGA § 17-4-40, the court shall give notice of the date, time and location of the hearing to the applicant and to the person whose arrest is sought by personal service or by first class mail to the person's last known address or by any other means which are reasonably calculated to notify the person of the date, time and location of the hearing.
(b) At the warrant application hearing the court shall:
(1) Explain the probable cause purpose of the hearing;
(2) Inform the accused of the charges;
(3) Inform the accused of the right to hire and have the advice of an attorney, of the right to remain silent, and that any statement made may be used against him or her.
(c) The warrant application hearing shall be conducted in accordance with OCGA § 17-4-40 (b) (4) and (5) and Rule 20.2 (c) of these rules.
(d) A copy of the record of any testimony and the proceedings of the warrant application hearing, if available, shall be provided to the proper prosecuting officer and to the accused upon payment of the reasonable cost for preparation of the record.

(e) The judge conducting a warrant application hearing is without jurisdiction to make final disposition of the case or cases at the hearing by imposing any fine or punishment.

RULE 21. APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS

The municipal court shall have a procedure and forms consistent with state law in order to determine indigence and to appoint counsel to defendants who apply and qualify for appointed counsel. The applications shall be available though the clerk of the municipal court.

The rules of municipal courts shall embrace and include OCGA § 17-12-1 et seq. The Georgia Public Defender Standards, as amended, are incorporated by reference to the extent that they are applicable to municipal courts.

RULE 22. ARRAIGNMENT

22.1 Calendar
22.2 Call for Arraignment

22.1 Calendar.

The judge or the judge's designee shall set the time of arraignment unless arraignment is waived either by the defendant or by operation of law. Notice of the date, time and place of arraignment shall be delivered to the clerk of the court and sent to attorneys of record, defendants and bondsmen.

22.2 Call for Arraignment.

At or before arraignment, the court shall inquire whether the accused is represented by an attorney and, if not, advise the accused of the right to indigent defense counsel and the procedures by which an attorney's assistance may be obtained.

At arraignment, the accused, upon a plea of not guilty, may exercise his or her right to have the case bound over to the appropriate state or superior court for a trial by jury. If the accused desires a trial in municipal court before a judge without a jury, the accused shall so signify by executing a written waiver of the right to trial by jury at arraignment. Thereafter, the prosecution may, within ten (10) days, exercise its right to a trial by jury by filing a notice of binding the case over to the appropriate state or superior court. Failure of the prosecution to demand that the case be bound over for jury trial shall be deemed a waiver of the prosecution's right to trial by jury. Thereafter, a revocation of either the accused's or the prosecution's waiver of the right to trial by jury shall be effective only upon written application to the court, which shall approve such revocation unless the court makes specific findings that the revocation will substantially delay or impede the cause of justice.

Upon the call of the case for arraignment the accused, or the attorney for the accused, shall answer whether the accused pleads guilty or not guilty or desires to enter a plea of nolo contendere to the offense or offenses charged; a plea of not guilty shall constitute a joining of the issue.

RULE 23. MOTIONS, DEMURRERS, SPECIAL PLEAS, ETC.

23.1 Time for Filing.

All motions, demurrers, and special pleas shall be made and filed at or before the time set by law, unless time therefor is extended by the judge in writing prior to trial. Notices of the prosecution's intention to present evidence of similar transactions or occurrences and notices of the intention of the defense to raise the issue of insanity, mental illness, or mental competency shall be given and filed at least ten (10) days before trial unless the time is shortened or lengthened by the judge. Such filing shall be in accordance with Rules 23.2 – 23.4.

23.2 Time for Hearing.

All such motions, demurrers, special pleas and notices shall be heard and considered at such time, date, and place as set by the judge. Generally, such will be heard at or after the time of arraignment and prior to the time at which such case is scheduled for trial.

23.3 Notice of Prosecution's Intent to Present Evidence of Similar Transactions.

(a) The prosecution may, upon notice filed in accordance with Rule 23.1, request of the court in which the charging instrument is pending, leave to present during the trial evidence of similar transactions or occurrences.

(b) The notice shall be in writing, served upon the defendant's counsel, and shall state the transaction, date, county, and the name(s) of the victim(s) for each similar transaction or occurrence sought to be introduced. Copies of accusations or indictments, if any, and guilty pleas or verdicts, if any, shall be attached to the notice. The judge shall hold a hearing at such time as may be appropriate, and may receive evidence on any issue of fact necessary to determine the request. The burden of proving that the evidence of similar transactions or occurrences should be admitted shall be upon the prosecution. The prosecutor may present during the trial evidence of only those similar transactions or occurrences specifically approved by the judge.

(c) Evidence of similar transactions or occurrences not approved shall be inadmissible. In every case, the prosecuting attorney and defense attorney shall instruct their witnesses not to refer to similar crimes, transactions or occurrences, or otherwise place the defendant's character in issue, unless specifically authorized by the judge.

(d) If upon the trial of the case the defense places the defendant's character in issue, evidence of similar transactions or occurrences, as shall be admissible according to the rules of evidence, shall be admissible, the above provisions notwithstanding.

(e) Nothing in this rule is intended to prohibit the prosecution from introducing evidence of similar transactions or occurrences which are lesser included alleged offenses of the charge being tried, or are immediately related in time and place to the charge being tried, as part of a single, continuous transaction. Nothing in this rule is intended to alter the rules of evidence relating to impeachment of witnesses.

(f) This rule shall not apply to sentencing hearings.

23.4 Notice of Intention of Defense to Raise Issue of Insanity, Mental Illness or Mental Competency.

Uniform Superior Court Rules 28.3, 31.4 and 31.5, as amended from time to time, and as applicable to municipal courts, are hereby adopted verbatim.

RULE 24. CRIMINAL TRIAL CALENDAR

24.1 Calendar Preparation.

All cases shall be set for trial within a reasonable time after arraignment. The clerk, judge or the judge's designee shall prepare a trial calendar, shall if applicable deliver a copy thereof to the clerk of court, and shall give notice in person or by mail to each counsel of record, the bondsman (if any) and the defendant at the last address indicated in court records, not less than seven (7) days before the trial date. The calendar shall list the dates that cases are set for trial, the cases to be tried at that session of court, the case numbers, the names of the defendants and the names of the defense counsel.

24.2 Removal from Calendar.

No case shall be postponed or removed from the calendar except by the judge.

RULE 25. PLEADING BY DEFENDANT

25.1 Alternatives.

(a) A defendant may plead guilty, not guilty, or in the discretion of the judge, nolo contendere. A plea of guilty or nolo contendere should be received only from the defendant personally in open court, except when the defendant is a corporation, in which case the plea may be entered by a duly authorized attorney at law or a corporate officer. In misdemeanor, traffic and municipal ordinance cases, upon the request of a defendant who has made, in writing, a knowing, intelligent and voluntary waiver of his right to be present, the court may accept a plea of guilty or nolo contendere in absentia.

(b) A defendant may plead nolo contendere only with the consent of the judge. Such a plea should be accepted by the judge only after due consideration of the views of the parties and the interest of the public in the effective administration of justice. A plea of nolo contendere shall be handled under these rules in a manner consistent with a plea of guilty.

25.2 Aid of Counsel—Time for Deliberation.

(a) A defendant shall not be called upon to plead before having a reasonable opportunity to retain counsel, or if the defendant is eligible for appointment of counsel, until counsel has been appointed or right to counsel waived. A defendant with counsel shall not be required to enter a plea if counsel makes a reasonable request for additional time to represent the defendant's interest, or if the defendant has not had a reasonable time to consult with counsel.

(b) A defendant without counsel should not be called upon to plead to any offense without having had a reasonable time to consider this decision. When a defendant without counsel tenders a plea of guilty or nolo contendere to an offense, the court shall not accept the plea unless it is reaffirmed by the defendant after a reasonable time for deliberation, following the admonitions from the court required in Rule 25.8.

25.3 Propriety of Plea Discussions and Plea Agreements.

(a) In cases in which it appears that the interests of the public in the effective administration of criminal justice (as stated in Rule 25.6) would thereby be served, the prosecuting attorney may engage in plea discussions for the purpose of reaching a plea agreement. The prosecuting attorney should engage in plea discussions or reach a plea agreement with the defendant only through defense counsel, except when the defendant is not eligible for or does not desire appointment of counsel and has not retained counsel.

(b) The prosecuting attorney, in reaching a plea agreement, may agree to one or more of the following, as dictated by the circumstances of the individual case:

(1) To make or not to oppose favorable recommendations as to the sentence which should be imposed if the defendant enters a plea of guilty or nolo contendere;

(2) To seek or not to oppose dismissal of the offense charged if the defendant enters a plea of guilty or nolo contendere to another offense reasonably related to defendant's conduct; or

(3) To seek or not to oppose dismissal of other charges or potential charges against the defendant if the defendant enters a plea of guilty or nolo contendere.

25.4 Relationship Between Defense Counsel and Client.

(a) Defense counsel shall conclude a plea agreement only with the consent of the defendant, and shall ensure that the decision to enter or not enter a plea of guilty or nolo contendere is ultimately made by the defendant.

(b) To aid the defendant in reaching a decision, defense counsel, after appropriate investigation, should advise the defendant of the alternatives available and of considerations deemed important by him in reaching a decision.

25.5 Responsibilities of the Trial Judge.

(a) The trial judge shall not participate in plea discussions.

(b) If a tentative plea agreement has been reached, upon request of the parties, the trial judge may permit the parties to disclose the tentative agreement and the reasons therefor in advance of the time for the tendering of the plea. The judge may then indicate to the prosecuting attorney and defense counsel whether the judge will likely concur in the proposed disposition if the information developed in the plea hearing or presented in any pre-sentence report is consistent with the representations made by the parties. If the trial judge concurs but the final disposition differs from that contemplated by the plea agreement, then the judge shall state for the record what information in any pre-sentence report or hearing contributed to the decision not to sentence in accordance with the plea agreement.

(c) When a plea of guilty or nolo contendere is tendered or received as a result of a plea agreement, the trial judge shall give the agreement due consideration, but notwithstanding its existence, must reach an independent decision on whether to grant charge or sentence leniency under the principles set forth in Rule 25.6 of these rules.

25.6 Consideration of Plea in Final Disposition.

(a) It is proper for the judge to grant charge and sentence leniency to defendants who enter pleas of guilty or nolo contendere when the interests of the public in the effective administration of criminal justice are thereby served. Among the considerations which are appropriate in determining this question are:

(1) That the defendant by entering a plea has aided in ensuring the prompt and certain application of correctional measures;

(2) That the defendant has acknowledged guilt and shown a willingness to assume responsibility for conduct;

(3) That the leniency will make possible alternative correctional measures which are better adapted to achieving rehabilitative, protective, deterrent or other purposes of correctional treatment, or will prevent undue harm to the defendant from the form of conviction;

(4) That the defendant has made public trial unnecessary when there are good reasons for not having the case dealt with in a public trial;

(5) That the defendant has given or offered cooperation when such cooperation has resulted or may result in the successful prosecution of other offenders engaged in equally serious or more serious criminal conduct;

(6) That the defendant by entering a plea has aided in avoiding delay (including delay due to crowded dockets) in the disposition of other cases and thereby has increased the probability of prompt and certain application of correctional measures to other offenders.

(b) The judge should not impose upon a defendant any sentence in excess of that which would be justified by any of the rehabilitative, protective, deterrent or other purposes of the criminal law merely because the defendant has chosen to require the prosecution to prove the defendant's guilt at trial rather than to enter a plea of guilty or nolo contendere.

25.7 Determining Voluntariness of Plea.

The judge shall not accept a plea of guilty or nolo contendere without first determining, on the record, that the plea is voluntary. By inquiry of the prosecuting attorney and defense counsel, the judge should determine whether the tendered plea is the result of prior plea discussions and a plea agreement, and, if it is, what agreement has been reached. If the prosecuting attorney has agreed to seek charge or sentence leniency which must be approved by the judge, the judge must advise the defendant personally that the recommendations of the prosecuting attorney are not binding on the judge. The judge shall then address the defendant personally and determine whether any other promises or any force or threats were used to obtain the plea.

25.8 Defendant to Be Informed.

The judge shall not accept a plea of guilty or nolo contendere from a defendant without first:

(a) Determining on the record that the defendant understands the nature of the charge(s);

(b) Informing the defendant on the record that by entering a plea of guilty or nolo contendere one waives:

(1) The right to trial by jury;

(2) The presumption of innocence;

(3) The right to confront witnesses against oneself;

(4) The right to subpoena witnesses;

(5) The right to testify and to offer other evidence;

(6) The right to assistance of counsel during trial;

(7) The right not to incriminate oneself; and that by pleading not guilty or remaining silent and not entering a plea, one obtains a jury trial; and

(c) Informing the defendant on the record:

(1) Of the terms of any negotiated plea;

(2) That a plea of guilty may have an impact on his or her immigration status if the defendant is not a citizen of the United States;

(3) Of the maximum possible sentence on the charge, including that possible from consecutive sentences and enhanced sentences where provided by law; and/or

(4) Of the mandatory minimum sentence, if any, on the charge. This information may be developed by questions from the judge, the district attorney or the defense attorney, or a combination of any of these.

25.9 Determining Accuracy of Plea.

Notwithstanding the acceptance of a plea of guilty or nolo contendere, judgment shall not be entered upon such plea without such inquiry on the record as may satisfy the judge that there is a factual basis for the plea.

25.10 Stating Intention to Reject the Plea Agreement.

If the trial court intends to reject the plea agreement, the trial court shall, on the record, inform the defendant personally that (1) the trial court is not bound by any plea agreement; (2) the trial court intends to reject the plea agreement presently before it; (3) the disposition of the present case may be less favorable to the defendant than that contemplated by the plea agreement; and (4) that the defendant may then withdraw his or her guilty plea as a matter of right. If the plea is not then withdrawn, sentence may be pronounced.

25.11 Plea Withdrawal.

(a) After sentence is pronounced, the judge shall allow the defendant to withdraw his plea of guilty or nolo contendere whenever the defendant, upon a timely motion for withdrawal, proves that withdrawal is necessary to correct a manifest injustice.
(b) In the absence of a showing that withdrawal is necessary to correct a manifest injustice, a defendant may not withdraw a plea of guilty or nolo contendere as a matter of right once sentence has been pronounced by the judge.

RULE 26. RECORD OF PROCEEDINGS

A verbatim mechanical recording or a contemporaneous paper record, or both, of the proceedings at which a defendant enters a plea of guilty or nolo contendere shall be made and preserved for a minimum of two years. The record shall include:
(a) The inquiry into the voluntariness of the plea (as required in Rule 25.7);
(b) The advice to the defendant (as required in Rule 25.8);
(c) The inquiry into the accuracy of the plea (as required in Rule 25.9); and, if applicable,
(d) The notice to the defendant that the trial court intends to reject the plea agreement and the defendant's right to withdraw the guilty plea before sentence is pronounced.

RULE 27. PRESERVATION OF EVIDENCE

27.1 Maintenance of Criminal Evidence.

Prior to and during the trial or hearing:

The clerk of the municipal court in possession of documents, electronic documents, audio and video recordings of whatever form, exhibits, and other material objects or any other case file, shall maintain a log or inventory of all such items with the case number, party names, description

of the item, the name and official position of the custodian, and the location of the storage of the items. Dangerous or contraband items shall be placed in the custody of the clerk of the municipal court or his/her designee and be maintained in the courthouse or other such location as allowed by law and be available during court proceedings and accessible to the court reporter. Unless retained in the original case file, all such items admitted as evidence shall be identified or tagged by the clerk or court reporter with the case number and the exhibit number and be recorded in the evidence log or inventory. The clerk of the municipal court shall update the log or inventory to show the current custodian and the location of the evidence. Dangerous or contraband items shall be transferred to the chief of police, sheriff or other appropriate law enforcement agency along with a copy of the log or inventory. The chief of police or sheriff or other law enforcement agency shall acknowledge the transfer with a signed receipt, and the receipt shall be retained with the log or inventory created and maintained by the clerk of the municipal court. The clerk of the municipal court and the chief of police or sheriff or other law enforcement agency shall each maintain a log or inventory of such items of evidence. In all cases, the clerk of the municipal court shall be granted the right of access to such items of evidence necessary to complete the transcript of the case. In any case in which no court reporter was retained, the clerk of the municipal court shall keep and store the evidence or ensure that it is maintained in an appropriate location.

Evidence in the possession of the clerk of the municipal court or court reporter, during court proceedings, shall be maintained in accordance with the provisions of OCGA § 17-5-55 and other applicable law. The designated custodian shall be responsible for the recording of the evidence log or inventory, the name of the counsel or party, the date, and the purpose for the release of any such items of evidence. Subsequent to admission of any item into evidence by the Court, no substitution for the item admitted into evidence shall be made except by leave of the Court. Any counsel or party seeking to make a substitution for admitted evidence after the close of evidence shall file a motion for an order authorizing such substitution. Upon granting of an order for substitution, the order shall be entered into the log or inventory.

The log or inventory of any evidence separated from the original case file shall be maintained in the original case file.

Upon the expiration of the time for the filing of an appeal during which no appeal has been filed by any party, the clerk of the municipal court, court reporter, chief of police, sheriff or other law enforcement agency may, and shall upon written request, return any item of admitted evidence to the counsel or party who tendered the same; provided, however, that no item which is contraband or illegal to possess in the state of Georgia shall be returned to any counsel or party, and all such items shall, upon the expiration of the time for the filing of an appeal during which no appeal has been filed by any party, be delivered over to the chief of police or sheriff of the county for appropriate disposition. Upon the expiration of the time for the filing of an appeal during which no appeal has been filed by any party, the clerk of the municipal court, court reporter, chief of police or sheriff or other law enforcement agency may notify in writing the counsel or party who tendered any item(s) admitted in evidence in the possession of such clerk, court reporter, chief of police or sheriff or other law enforcement agency, to retrieve such item(s) within thirty (30) days of the written notice, and, upon the failure of the counsel or party to retrieve same within such thirty (30) days, the clerk, court reporter, chief of police or sheriff or law enforcement agency may dispose of the item(s).

27.2 Maintenance of Civil Evidence.

(a) Prior to and during the trial or hearing:

The clerk of the municipal court in possession of documents, electronic documents, audio and video recordings of whatever form, exhibits, and other material objects or any other case file, shall maintain a log or inventory of all such items with the case number, party names, description of the item, the name and official position of the custodian, and the location of the storage of the items. Dangerous or contraband items shall be placed in the custody of the clerk of the municipal court or designee and be maintained in the courthouse or other such location as allowed by law and be available during court proceedings and accessible to the court reporter. Unless retained in the original case file, all such items admitted as evidence shall be identified or tagged by the clerk or court reporter with the case number and the exhibit number and be recorded in the evidence log or inventory. The clerk of the municipal court shall update the log or inventory to show the current custodian and the location of the evidence.

(b) Once the trial is concluded:

Dangerous or contraband items shall be transferred to the chief of police or sheriff or other appropriate law enforcement agency along with a copy of the log or inventory. The sheriff or other law enforcement agency shall acknowledge the transfer with a signed receipt, and the receipt shall be retained with the log or inventory created and maintained by the clerk of the municipal court. The clerk of the municipal court and the chief of police, sheriff or other law enforcement agency shall each maintain a log or inventory of such items of evidence. In all cases, the clerk shall be granted the right of access to such items of evidence necessary to complete the transcript of the case. In any case in which no court reporter was retained, the clerk of the municipal court shall keep and store the evidence or ensure that it is maintained in an appropriate location.

Evidence in the possession of the clerk of the municipal court or court reporter shall be maintained in accordance with the law. The designated custodian shall be responsible for the recording of the evidence log or inventory, the name of the counsel or party, the date, and the purpose for the release of any such items of evidence. Subsequent to admission of any item into evidence by the Court, no substitution for the item admitted into evidence shall be made except by leave of the Court. Any counsel or party seeking to make a substitution for admitted evidence after the close of evidence shall file a motion for an order authorizing such substitution. Upon granting of an order for substitution, the order shall be entered into the log or inventory.

The log or inventory of any evidence separated from the original case file shall be maintained in the original case file. Upon the expiration of the time for the filing of an appeal during which no motion for new trial or appeal has been filed by any party, the clerk of the municipal court, court reporter, chief of police, sheriff or other law enforcement agency may, and shall upon written request, return any item of admitted evidence to the counsel or party who tendered the same; provided, however, that no item which is contraband or illegal to possess in the state of Georgia shall be returned to any counsel or party, and all such items shall, upon the expiration of the time for the filing of an appeal during which no motion for new trial or appeal has been filed by any party, be delivered over to the chief of police or sheriff of the county for appropriate disposition. Upon the expiration of the time for the filing of an appeal during which no motion for new trial or appeal has been filed by any party, the clerk of the municipal court, court reporter, chief or police, sheriff or other law enforcement agency may notify in writing the counsel or party who tendered any item(s) admitted in evidence in the possession of such clerk, court reporter, chief of police, sheriff or law enforcement agency, to retrieve such item(s) within thirty (30) days of the

written notice, and, upon the failure of the counsel or party to retrieve same within such thirty (30) days, the clerk, court reporter, chief of police, sheriff or law enforcement agency may dispose of the item(s).